

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**OSCAR ALEXIS GONZALEZ AGUILAR,**

**Petitioner,<sup>1</sup>**

**v.**

**No. 19-cv-0412 WJ/SMV**

**KEVIN McALEENAN, MATTHEW T. ALBENCE,  
WILLIAM P. BARR, FLOYD SAM FARMER,  
DEAN KING, and CHAD MILLER,**

**Respondents.**

**ORDER FOR SERVICE AND RESPONSE**

THIS MATTER is before the Court on the Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 [Doc. 1], and on the Motion for Order to Show Cause [Doc. 2], both filed on May 3, 2019. The Court will order Petitioner to effect service on Respondents within 30 days.<sup>2</sup> Further, the Court will grant the Motion for Order to Show Cause [Doc. 2] and require Respondents to respond to the Petition within 20 days of the date that they are served, showing cause why a Writ of Habeas Corpus should not issue. *See* 28 U.S.C. § 2243 (2018).

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** that Petitioner, **no later than June 14, 2019**, serve process on Respondents **AND FURTHER** file proof of service

---

<sup>1</sup> Petitioner identifies as female and uses the first name Kelly and female pronouns. [Doc. 1] at 2 n.1. Accordingly, the Court will refer to Petitioner as “she” or “her.”

<sup>2</sup> The Court’s obligation to serve most habeas petitions stems from the Rules Governing 2254 and 2255 Cases. For example, Rule 4 of the Rules Governing 2254 Cases provides that “[i]f the petition is not dismissed, . . . the clerk must serve a copy of the petition and any order on the respondent.” If applicable, the *in forma pauperis* statute also provides a basis for court-supplied service. 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process, and perform all duties in [*in forma pauperis*] cases.”). Here, however, Petitioner is not proceeding under §§ 2254, 2255, or 1915. Her Petition challenges her immigration detention under 28 U.S.C. § 2241. [Doc. 1] at 4 (citing *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001)). Accordingly, it appears to the Court that the Federal Rules of Civil Procedure, including the service provision of Rule 4, apply to this case. *See* Fed. R. Civ. P. 81(a)(4).

in conformity with the requirements of Fed. R. Civ. P. 4, or show cause why not. If Petitioner does not timely comply, the Court may consider dismissal of this proceeding.

**IT IS FURTHER ORDERED** that Respondents, within 20 days after service, respond to the Petition or otherwise show cause why a Writ of Habeas Corpus should not issue.

**IT IS FURTHER ORDERED** that if Petitioner desires to file a reply (traverse), she may do so within 14 days of the filing of the response.

**IT IS FURTHER ORDERED** that the Court will set a hearing, if needed, at a later time.  
*See* § 2243.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
**STEPHAN M. VIDMAR**  
**United States Magistrate Judge**